

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cheyanne Ralph	Team: Squad #2	CCRB Case #: 201801863	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 03/08/2018 9:00 PM	Location of Incident: 415 Gates Avenue	Precinct: 79	18 Mo. SOL 9/8/2019	EO SOL 9/8/2019	
Date/Time CV Reported Thu, 03/08/2018 8:34 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 03/08/2018 8:34 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Jakia Morton	19983	962629	079 PCT
2. POM Matthew Librizzi	08737	956850	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Thomas Burns	22735	962280	079 PCT
2. SGT Kieran Tracy	01034	943888	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Jakia Morton	Abuse: Police Officer Jakia Morton stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM Matthew Librizzi	Abuse: Police Officer Matthew Librizzi stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
C.POM Matthew Librizzi	Abuse: Police Officer Matthew Librizzi searched § 87(2)(b)	
D.POM Matthew Librizzi	Abuse: Police Officer Matthew Librizzi frisked § 87(2)(b)	
E.POM Matthew Librizzi	Abuse: Police Officer Matthew Librizzi searched the vehicle in which § 87(2)(b) was an occupant.	
F.POM Matthew Librizzi	Abuse: Police Officer Matthew Librizzi threatened to seize § 87(2)(b)'s property.	

Case Summary

On March 8, 2018, § 87(2)(b) filed this complaint with the Civilian Complaint Review Board (CCRB) via the Call Processing System on behalf of herself and her husband, § 87(2)(b).

On March 8, 2018, at approximately 9:00 p.m., Police Officer Jakia Morton and Police Officer Matthew Librizzi of the 79th Precinct stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants at 415 Gates Avenue, in Brooklyn for a traffic violation (**Allegations A and B: Abuse of Authority- Vehicle stop;** § 87(2)(g)). After § 87(2)(b) was removed from the vehicle, he was frisked and searched by Police Officer Librizzi (**Allegations C and D: Abuse of Authority- Frisk and search;** § 87(2)(g)). Once § 87(2)(b) was placed inside of the police vehicle, Police Officer Librizzi allegedly searched § 87(2)(b)'s vehicle and threatened to seize it (**Allegations E: Abuse of Authority- Vehicle search and Allegation F- Threat to seize property;** § 87(2)(g)). § 87(2)(b) was arrested as a result of this incident but was ultimately released with a summons for § 87(2)(b) (Board Review 01).

No video footage of this incident was found.

Findings and Recommendations

Allegation A: Abuse of Authority- Police Officer Matthew Librizzi stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation B: Abuse of Authority- Police Officer Jakia Morton stopped the vehicle in which § 87(2)(b) was an occupant.

On March 15, 2018, § 87(2)(b) and § 87(2)(b) both provided telephone statements to the CCRB (Board Review 02). § 87(2)(b) and § 87(2)(b) were both interviewed at the Brooklyn Public Library located at 790 Bushwick Avenue, in Brooklyn on April 9, 2018. § 87(2)(b) provided a follow-up telephone statement on August 23, 2018 (Board Review 14). Police Officer Morton was interviewed at the CCRB on May 30, 2018. Police Officer Thomas Burns of the 79th Precinct was interviewed June 5, 2018, and Police Officer Librizzi was interviewed at the CCRB on July 26, 2018.

It is undisputed that the rear windshield of § 87(2)(b) and § 87(2)(b)'s vehicle was tinted and that the vehicle had a temporary license plate that was affixed inside the tinted windshield.

§ 87(2)(b) alleged that on the date of incident he was driving a grey 2011 Dodge Charger (Board Review 04) which had a temporary license plate from the state of Connecticut taped to the interior of the vehicle, on the left hand side of the rear windshield. The vehicle also had tints installed. When Police Officer Librizzi approached the vehicle, he informed § 87(2)(b) that the temporary license plate was displayed improperly, and it had to be displayed in the same place as a standard license plate. § 87(2)(b) informed Police Officer Librizzi that he had recently purchased the vehicle and was not aware of that information. Police Officer Librizzi in response took § 87(2)(b)'s license and registration and went back to his vehicle. Approximately three

minutes later, Police Officer Librizzi returned and directed § 87(2)(b) to exit the vehicle and told § 87(2)(b) that he had an I-Card and two warrants.

Police Officer Librizzi testified that he and Police Officer Morton were seated in their vehicle when they observed a vehicle with heavy tints and no license plate attached and proceeded to pull the vehicle over. Police Officer Librizzi did not see any temporary license plates attached to the vehicle at any point before he pulled the vehicle over. When Police Officer Librizzi exited his vehicle and got directly next to vehicle, it was then that he saw a temporary tag displayed at the top side of the rear windshield. (He stated to the CCRB that temporary license plates are supposed to be displayed on the exterior of the vehicle and cannot be covered by glass or plastic). Police Officer Librizzi approached the driver's side window and requested the license of the driver, § 87(2)(b) and returned to his vehicle.

New York State Vehicle and Traffic Law article 375-12(b) states that no one should operate a vehicle in which the front or rear windshield is covered by or treated with any material which has a light transmittance of less than seventy percent (Board Review 06).

§ 87(2)(g)
§ 87(2)(g)
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§ 87(2)(g)

Allegation C: Abuse of Authority- Police Officer Matthew Librizzi searched § 87(2)(b)

Allegation D: Abuse of Authority- Police Officer Matthew Librizzi frisked § 87(2)(b)

§ 87(2)(b) alleged that when he exited the vehicle, Police Officer Librizzi said, “Do you have any weapons?” § 87(2)(b) replied, “Yeah, I have a razor. It’s in the middle console.” He described this razor as a black razor with a two inch blade. Police Officer Librizzi removed the razor from the vehicle and then placed his hand inside of § 87(2)(b)’s two exterior jacket pockets followed by his interior jacket pocket. § 87(2)(b) did not have any items stored inside these three pockets because he had his phone and his wallet in his hand when Police Officer Librizzi told him to exit the vehicle. Police Officer Librizzi then placed his hand inside of both of § 87(2)(b)’s pants pockets, checked § 87(2)(b)’s waistband, and patted down his legs.

Police Officer Librizzi stated that once he requested § 87(2)(b)’s license and returned back to his vehicle, he ran a standard NCIC check on § 87(2)(b)’s license plate and was notified by the computer that § 87(2)(b) had an active I-Card for murder as well as two arrest warrants. He noted the I-Card number as I-Card #§ 87(2)(b) in his memo book (Board Review 15). This NCIC check runs § 87(2)(b)’s name and date of birth and the computer yields any NYPD results or any results regarding any criminal activity. Once he ran the search, the search yielded gun related charges and an extensive violent arrest history for § 87(2)(b). Police Officer Librizzi could not recall how many charges there were or the time frame of these arrests. He also could not recall what the warrants were for. Police Officer Librizzi then called for additional units over the radio due to the fact that § 87(2)(b) had an active I-Card for murder. Police Officer Librizzi did not attempt to call the detective assigned to the I-Card because that information was not

available to him while on scene due to a computer system failure. The only information available at the time of the stop was the crime associated with the I-Card and he would need to return to the stationhouse with § 87(2)(b) for that information.

Two additional units of uniformed and plain clothes officers arrived on scene, including Sergeant Kieran Tracy of the 79th Precinct. Sergeant Tracy did not provide Police Officer Librizzi with any instructions regarding the vehicle or the occupants when he arrived. Police Officer Librizzi approached the vehicle and directed § 87(2)(b) to turn the vehicle off and exit the vehicle. Police Officer Librizzi denied asking § 87(2)(b) if he had any weapons inside of the vehicle and stated that at no point did § 87(2)(b) ever inform him that he had a razor in the middle console of the vehicle. Once § 87(2)(b) exited the vehicle he was considered to be under arrest and placed in handcuffs. Once in handcuffs § 87(2)(b) was frisked by Police Officer Librizzi and an unknown officer and a foldable husky razor knife was recovered from § 87(2)(b)'s waistband. Police Officer Librizzi could not recall which officer assisted with the handcuffing process. § 87(2)(b) was then placed in the back of Police Officer Librizzi's vehicle.

Police Officer Morton stated that once they conducted a query of § 87(2)(b)'s license, it was determined that § 87(2)(b) had an active I-Card from 2013 for being a suspect to either a homicide or manslaughter. It also stated that if officers encountered § 87(2)(b) to bring him in so a detective could speak with him. At that point additional units were requested and additional officers including Sergeant Tracy on scene. Police Officer Morton and Police Officer Librizzi explained to Sergeant Tracy that § 87(2)(b) had an I-Card and Sergeant Tracy said that § 87(2)(b) should be placed under arrest. § 87(2)(b) was then asked to step out of the vehicle and Police Officer Morton heard Police Officer Librizzi ask § 87(2)(b) if he had any weapons. Police Officer Morton could not recall if § 87(2)(b) ever informed Police Officer Librizzi that he had a razor in the center console and could not remember if she ever saw a razor in the middle console of § 87(2)(b)'s vehicle. Once out of the vehicle, § 87(2)(b) was searched by Police Officer Librizzi. Police Officer Morton could not provide any details regarding this search because she remained standing on the passenger side of the vehicle. However Police Officer Morton knew that a knife was recovered as a result of this search. She did not see Police Officer Librizzi remove this knife and was only informed of this later that day.

I-Card #§ 87(2)(b) was generated by Det. Thomas Cappolla of the Detective Borough of Queens for § 87(2)(b) for reckless endangerment and noted that he was being sought as witness. No additional information was listed (Board Review 05). Search request to the Internal Affairs Bureau and the Department Advocate's Officer returned negative results for any additional I-Cards or arrest warrants for § 87(2)(b) that were active as of the date of this incident.

Requests for any bench and arrest warrants open for § 87(2)(b) on March 8, 2018, was returned by the Department Advocates Office with negative results (Board Review 08).

Prior to being removed to a stationhouse, officers should frisk and search prisoners and search the adjacent vicinity for weapons, evidence and contraband. **Patrol Guide Procedure 208-02** (Board Review 07) **and 208-03** (Board Review 08)

§ 87(2)(g)

Allegation E: Abuse of Authority- Police Officer Matthew Librizzi searched the vehicle in which § 87(2)(b) was an occupant.

Allegation F: Abuse of Authority- Police Officer Matthew Librizzi threatened to seize § 87(2)(b)s property.

§ 87(2)(b) stated that, after § 87(2)(b) was placed in a police vehicle, she observed Police Officer Librizzi stand at the back of she and § 87(2)(b)s vehicle with the car keys in his hand and appeared to be trying to open the trunk with the key remote. § 87(2)(b) said, “What are you doing?” Police Officer Librizzi replied, “We are taking the vehicle.” § 87(2)(b) said, “No y’all are not, because that is my vehicle. What happened?” Police Officer Librizzi continued to press the buttons on the key remote. Eventually Police Officer Librizzi was able to open the trunk and the vehicle doors. Police Officer Librizzi then proceeded to search through the items stored inside of the trunk. Police Officer Librizzi did not ask § 87(2)(b) for consent to search the vehicle at any time before this. § 87(2)(b) said, “That’s my vehicle. Why are y’all searching?” Police Officer Librizzi continued to search the vehicle and did not say anything in response. After approximately 15 to 20 minutes, an officer handed § 87(2)(b) her car keys and said that she could take the car and leave.

Police Officer Librizzi stated that once § 87(2)(b) was placed in the police vehicle, § 87(2)(b) who was seated in the front passenger seat, was asked to exit the vehicle because the vehicle was going to be taken back to the 79th Precinct stationhouse and vouchered for safe keeping. He stated that the vehicle had to be taken back to the stationhouse for safekeeping because at the time of the incident, they could not identify who the valid owner of the vehicle was and “it was not good practice to leave the vehicle on the street because it could be subject to a parking summons or damage”. The vehicle also needed to be taken back to the stationhouse because Police Officer Librizzi did know whether or not § 87(2)(b) would be arrested for murder and subsequently jailed for a long time.

When § 87(2)(b) stepped out of the vehicle, she said that the vehicle belonged to her and that she needed it for work. Police Officer Librizzi maintained that the vehicle had to be taken back to the stationhouse and § 87(2)(b) told him that they were not taking her vehicle. Police Officer Librizzi then said, “If you give us consent to search, we will search it here and if the car is good you can take it back.” Police Officer Librizzi stated to the CCRB that at the time of the incident § 87(2)(b) did not have any proof that the vehicle belonged to her and the software that is used by officers to conduct DMV checks was not working at that time so he could not verify that the vehicle actually belonged to § 87(2)(b). § 87(2)(b) replied, “Search the vehicle, there is nothing in there.” Police Officer Librizzi stated that for this situation § 87(2)(b)s consent was not documented and he did not go back to the stationhouse and get consent to search form because it was not practical. § 87(2)(b) never objected to officers searching the vehicle and

Police Officer Librizzi did not hear her tell any officer that she objected to any search of the vehicle.

Police Officer Librizzi then searched the front driver's side, the rear driver's side, and the trunk. Nothing was removed from the interior of the vehicle but a bag with dirty clothes which was placed on the ground and later placed back inside of the trunk. He could not recall which officer assisted him in searching the vehicle but stated that it was one other officer. As this was happening § 87(2)(b) became verbally aggressive towards officers and cursed at them. He could not recall what she said.

Police Officer Morton stated that § 87(2)(b) provided consent to Police Officer Librizzi to search the vehicle.

Police Officer Burns denied seeing any officers search § 87(2)(b)'s vehicle.

§ 87(2)(g)

Once an individual exits a vehicle, if there is no "actual and specific" threat to the safety of the officer, or any further justification to search the vehicle, such a search is unlawful. **People v Hackett, A.d.3D 1122; 850 N.Y.S. 2d 676 (2008)** (Board Review 09).

Absent probable cause, it is unlawful for a police officer to invade the interior of a stopped vehicle once the suspects have been removed and patted down without incident, as any immediate threat the officers' safety has consequently been eliminated. **People v Mundo, 99 N.Y. 2D 55 2002** (Board Review 10).

The voluntariness of consent is evaluated by the surrounding circumstances, including whether the defendant is in custody and knows he can refuse consent. **People v. Keesler, 842 N.Y.S.2d 166, 167 (2007)** (Board Review 11).

People v. Confessore, 824 N.Y.S.2d 769 (2006) citing to South Dakota v. Opperman, 428 U.S. 364, 96 S. Ct. 3092, 49 L. Ed. 2d 1000, [1976] states that a vehicle can be seized when there is a reasonable basis to believe that the car itself is evidence of a crime, the car cannot be operated because it is unregistered or uninspected, the car was involved in a fatal automobile accident, or the car was driven by an unlicensed driver or driver whose license is suspended and there is no one who is legally able to drive the car (Board Review 12).

§ 87(2)(g)

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) has been a party to one other complaint and has been named a victim in two allegations (Board Review 13).
 - § 87(2)(b)
- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- Police Officer Librizzi has been a member-of-service for four years and this is the first CCRB complaint to which he has been a subject.
- Police Officer Morton has been a member-of-service for two years and this is her first CCRB complaint to which she has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) and § 87(2)(b) declined to mediate this complaint.
- A request for any Notice of Claim filed in regards to this incident has been submitted to the New York City's Comptroller's Office and the results will be added to the case file upon receipt (Board Review 18).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: _____02_____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date